

EXHIBIT B



January 31, 2022

Appealable Action

Kara Lomen, Executive Director
Partners in Nutrition dba Partners in Quality Care
1035 West 7th Street
St Paul, MN 55102-3827

Jim Handrigan, Board President
2713 Colfax Ave S
Minneapolis, MN 55408

Julius Scarver, Board Member
1035 West 7th Street
St. Paul, MN 55102-3827

Jodie Luzum, Director of Operations
9660 Pleasant Ave S
Bloomington, MN 55420

Dan Smeriglio, Claims Manager
1035 West 7th Street
St Paul, MN 55102-3827

Sue Ostfield, Board Member
3230 Yosemite Ave S
St. Louis Park, 55416

Donnie Preston, Board Treasurer
468 Carroll Ave
St Paul, MN 55103

Christine Twait, Board Secretary
7216 Braemar Lane
Woodbury, MN 55125

Regarding: Notice of Proposed Termination and Disqualification of CACFP Sponsorship

Sponsor Organization Number: 2000010186

Dear Kara Lomen and Jim Handrigan;

This letter concerns the Serious Deficiency Notice dated March 31, 2021 which determined that Partners in Nutrition dba Partners in Quality Care is seriously deficient in its operation of the Child and Adult Care Food Program (CACFP) for failure to conform to the performance standards and that Kara Lomen, Jodie Luzum, Julius Scarver, Sue Ostfield, Donnie Preston, Jim Handrigan, Dan Smeriglio and Christine Twait are responsible for the serious deficiencies.

The Minnesota Department of Education received documentation detailing the corrective action plan of Partners in Nutrition dba Partners in Quality Care which was accepted and temporarily deferred the serious deficiency. On January 20, 2022 a federal investigation of organizations participating in the USDA Child Nutrition programs for mail fraud, wire fraud, conspiracy and money laundering was made public through the unsealing of warrants and affidavits by the United States District Court for the District of Minnesota. Kara Lomen and Partners in Nutrition dba Partners in Quality Care along with fourteen CACFP sites and twenty-seven SFSP vendors paid by your sponsoring organization are specifically named.

Based on the evidence in the warrants and affidavits, the Minnesota Department of Education has determined that Partners in Nutrition dba Partners in Quality Care has not fully and permanently corrected the serious deficiencies cited in the Serious Deficiency notice on March 31, 2021 as well as engaged in unlawful acts. A summary of the findings of nonconformance are attached to this proposed termination and disqualification notice.

Proposed Termination and Proposed Disqualification 7 CFR 226.6(c)(3)(ii)(U)

As a result, effective February 15, 2022, the Minnesota Department of Education proposes to:

- Terminate Partners in Nutrition dba Partners in Quality Care's agreement to participate in the CACFP;
- Disqualify Partners in Nutrition dba Partners in Quality Care from future CACFP participation; and
- Disqualify Kara Lomen, Jodie Luzum, Julius Scarver, Sue Ostfield, Donnie Preston, Jim Handrigan, Dan Smeriglio and Christine Twait from future CACFP participation.

In addition, if Partners in Nutrition dba Partners in Quality Care voluntarily terminates its agreement after receiving this letter, the Minnesota Department of Education will propose to disqualify Partners in Nutrition dba Partners in Quality Care, Kara Lomen, Jodie Luzum, Julius Scarver, Sue Ostfield, Donnie Preston, Jim Handrigan, Dan Smeriglio and Christine Twait from future CACFP participation. If disqualified, Partners in Nutrition dba Partners in Quality Care, Kara Lomen, Jodie Luzum, Julius Scarver, Sue Ostfield, Donnie Preston, Jim Handrigan, Dan Smeriglio and Christine Twait will be placed on the National Disqualified List (NDL). While on the NDL, Partners in Nutrition dba Partners in Quality Care will not be able to participate in CACFP as an institution or facility. Kara Lomen, Jodie Luzum, Julius Scarver, Sue Ostfield, Donnie Preston, Jim Handrigan, Dan Smeriglio and Christine Twait will not be able to serve as a principal in any institution or facility or as a day care home provider in the CACFP.

Institutions and individuals remain on the NDL until USDA's Food and Nutrition Service, in consultation with the Minnesota Department of Education, determines that the serious deficiencies have been corrected, or until seven years after their disqualification. However, if any debt relating to the serious deficiencies has not been repaid, they will remain on the NDL until the debt is repaid.

These actions are being taken pursuant to 7 CFR 226.6(c)(3)(ii)(U).

STATUS OF SERIOUS DEFICIENCIES

The enclosed findings document details each serious deficiency and its status based on the review of the corrective action documentation.

APPEAL OF PROPOSED TERMINATION AND DISQUALIFICATION

Partners in Nutrition dba Partners in Quality Care may appeal the proposed termination of its agreement. In addition, Partners in Nutrition dba Partners in Quality Care, Kara Lomen, Jodie Luzum, Julius Scarver, Sue Ostfield, Donnie Preston, Jim Handrigan, Dan Smeriglio and Christine Twait may appeal their proposed disqualifications. A copy of the appeal procedures is enclosed. If any of you decide to appeal the proposed actions, all appeal procedures must be followed as failure to do so may result in the denial of your request for an appeal.

SUMMARY

Partners in Nutrition dba Partners in Quality Care has not fully and permanently corrected the serious deficiencies identified in the Serious Deficiency Notice. For this reason, the Minnesota Department is proposing to terminate Partners in Nutrition dba Partners in Quality Care's CACFP agreement and disqualify Partners in Nutrition dba Partners in Quality Care, Kara Lomen, Jodie Luzum, Julius Scarver, Sue Ostfield, Donnie Preston, Jim Handrigan, Dan Smeriglio and Christine Twait.

The proposed termination and the disqualifications may be appealed. If appealed, the proposed actions will not take effect until the hearing official issues a decision. If Partners in Nutrition dba Partners in Quality Care does not make a timely request for an appeal, Partners in Nutrition dba Partners in Quality Care's agreement will be terminated on February 15, 2022. If Partners in Nutrition dba Partners in Quality Care, Kara Lomen, Jodie Luzum, Julius Scarver, Sue Ostfield, Donnie Preston, Jim Handrigan, Dan Smeriglio and Christine Twait do not appeal their proposed disqualification, they will be disqualified from future CACFP participation effective February 15, 2022 and placed on the NDL.

Partners in Nutrition dba Partners in Quality Care may continue to participate in the CACFP until February 15, 2022 or, if Partners in Nutrition dba Partners in Quality Care appeals the proposed actions, until the hearing official issues a decision on the appeals. We will pay all valid claims for reimbursement submitted by Partners in Nutrition dba Partners in Quality Care for this period. As always, you must submit claims within 60 calendar days of the last day of the month covered by the claim. In addition, we will deny any portion of a claim we determine is invalid. If we deny payment of any portion of a claim, that action may be appealed.

MDE staff will be providing Partners in Nutrition dba Partners in Quality Care with instructions on submitting documentation to substantiate claims in addition to this notice.

Sincerely,



Emily Honer

Supervisor, Business Operations

Nutrition Program Services, Minnesota Department of Education

cc. USDA Midwest Regional Office

Enc: Status of serious deficiencies and findings of non-conformance to CACFP performance standards

Status of serious deficiencies and findings of non-conformance to CACFP performance standards

1. Performance Standard 1 – Financial viability and financial management [7 CFR 226.6(b)(2)(vii)(A)]

On June 16, 2021 the Minnesota Department of Education temporarily deferred this serious deficiency because Partners in Nutrition dba Partners in Quality Care updated their budget to reflect their current operations, explained their rapid growth of sites, provided corrective action regarding the vetting of sites under their sponsorship, and provided information on property owner permissions. This serious deficiency is being reopened because the budget included unallowable expenses, ineligible sites were identified for the purpose of a defrauding the federal government, and to the additional reasons:

- a. Organizations set up false nonprofits appearing to serve meals to children and signed program agreements with PIQC. These sites identified in the affidavits were serving no children and therefore PIQC was not serving unmet needs in the community.
- b. Sites operating to a fraudulent scheme to defraud the federal government, financial management practices failed to protect federal funds for their intended purpose.
- c. PIQC has at least 14 CACFP sites using shell companies to operate [ThinkTechAct, Mind Foundry, EPIC Therapy, and Southside Youth]. These are the sites identified in the affidavits at this time, additional information is still being evaluated by MDE.
- d. PIQC has at least 27 SFSP sites using a shell company (Empire Cuisine & Market, S&S Catering) as a vendor. The affidavits identify Kara Lomen as signing contracts with Empire Cuisine & Market and that PIQC had a sponsor-site relationship with sites using false vended meal companies to launder money. One shell company received over \$13 million dollars from PIQC which was then laundered further. MDE is still evaluating additional vended meal information of PIQC.

2. Performance Standard 2 – Administrative capability [7 CFR 226.6(b)(2)(vii)(B)]

On June 16, 2021, the Minnesota Department of Education temporarily deferred this serious deficiency because Partners in Nutrition dba Partners in Quality Care provided reasoning for their administrative cost rate of 15% in connection to the rapid growth of sites and reimbursement, provided corrective action on how the growth of claims were handled to ensure compliance and only valid claims were submitted, and provided an updated Management Plan including the need for sites and explanation of recruitment practices and training. This serious deficiency is being reopened because false and fraudulent claims were submitted, sites were operating under PIQC for the purpose of defrauding the federal government which disproves proper recruitment and training, and the additional reasons:

- a. Failure to implement appropriate and effective management to ensure the program operated in compliance. Effective management practices would prevent the fraudulent abuse of federal funds.
- b. Failure to employ capable monitoring staff. Capable monitoring staff and practices would have been able to identify and stop the fraudulent abuse of federal funds in which sites used PIQC to obtain Child Nutrition program funds. Additionally, PIQC would have been expected to place non-compliant site operators on the National Disqualified List (NDL), to date PIQC has not placed any individuals on the NDL.
- c. Failure to employ capable claims staff, claims staff for PIQC submitted false claims to MDE and then reimbursed federal funds to false child nutrition site operators.

3. Performance Standard 3 – Program accountability [7 CFR 226.6(b)(2)(vii)(C)]

On June 16, 2021, the Minnesota Department of Education temporarily deferred this serious deficiency because Partners in Nutrition dba Partners in Quality Care provided an updated training plan, policies

and procedures around program compliance, uploaded meal claim validation documents to SharePoint for the month of March 2021 and MDE separated out the complaints process from the serious deficiency. This serious deficiency is being reopened because of the failure of the updated training and plan, policies and procedures surrounding program compliance failed, documentation from the meal claim validation process was found to be fraudulent in some cases [example of Intown Childcare and the vended meal invoice from S&S Catering], and the additional reasons below:

- a. Governing board of directors failed to provide oversight of program operations to operate in compliance. The governing board has ultimate responsibility and must maintain oversight of operations. If effective financial and management oversight was in place by the board, wire fraud, mail fraud, conspiracy and money laundering would have been prevented and individuals would have been placed on the NDL.
- b. Failure of fiscal accountability.
- c. Compliance of meal service. Investigators discovered that food was not being purchased with the funds provided to the sites listed under PIQC in the affidavits, therefore the meal service was not in compliance. Food should be the primary cost of the Child Nutrition Programs.
- d. Denial of a renewing institution's application [7 CFR 226.6(c)(2)]
- e. Submission of false information is grounds for the denial of a renewing institutions application.
- f. Unlawful practices, the State agency is required to terminate permanent agreements if it believes a sponsoring organization is participating in unlawful practices.

Technical Assistance:

The Minnesota Department of Education (MDE) has been providing Partners in Nutrition dba Partners in Quality Care with technical assistance over the past six (6) months in relation to the serious deficiency declared on March 31, 2021 and temporarily deferred on June 16 2021. The technical assistance was provided through email and bi-monthly phone calls. The phone calls commonly included Kara Lomen and Jodie Luzum and approximately 5 MDE staff. In the phone calls, MDE highlighted concerns of the claim numbers and requested information as to how the sites were operating. Kara Lomen informed MDE multiple times that PIQC had the documentation and was providing monitoring and implementing additional technology to ensure compliance. On a number of occasions, MDE requested the pictures or monitoring or documentation but Kara did not provide the documentation. MDE also reminded Partners in Nutrition dba Partners in Quality Care that MDE would be following-up on the serious deficiency to ensure the corrective action actually took place and would be moving to propose termination if the corrective action or additional concerns were found related to the conformance of performance standards.